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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/601,879 02/15/96 HERTZOG

R 28-2004FWG4

EXAMINER

MELANIE L BROWN 12M2/0828

REAMER, J

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WASHINGTON, D.C. 200037

ART UNIT

PAPER NUMBER

1205
DATE MAILED:

08/28/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 1,2,7 To 28 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. Claims _____ have been cancelled.
3. Claims _____ are allowed.
4. Claims 1,2,7 To 28 are rejected.
5. Claims _____ are objected to.
6. Claims _____ are subject to restriction or election requirement.
7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. Formal drawings are required in response to this Office action.
9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).
11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).
12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.
13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. Other

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EXAMINER'S ACTION

Part III DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

2. Claims 1, 2, 7 and 8 to 28 remain rejected under 35 U.S.C. § 103 as being unpatentable over Sifniades in combination with Anderson et al and Barcilli, for the reasons repeatedly made of record. The arguments raised in the two preliminary amendments filed on May 2 and June 13, 1996 are mere repeating of the same arguments raised in previous responses. The points raised in the declaration are likewise not persuasive since they do not present

any additional data or comparisons with the prior art processes. The reasons that the combination of these cited references is considered to be proper have been set forth many times in the record and are not considered to be in error. The inclusion of claims 9 to 25 in the rejection is considered to be proper, even though there claims are presented to invoke an interference, since these claims are read in light of the instant disclosure and not the disclosure of the patent to Zakoshansky. These claims when read in light of the instant disclosure are not seen to overlap the claims of Zakoshansky. The limitations presented by newly added claims 26 to 28 are not considered to be patentable since the acetone limitation of 40 to 60 % is within the range taught by the prior art.

Conclusion

3. This is a continuation of applicant's earlier application S.N. 08/333,929. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds or art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See M.P.E.P. § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Reamer whose telephone number is (703) 308-4461.

James H. Reamer
JAMES H. REAMER
PRIMARY EXAMINER
GROUP 120 - ART UNIT 1265

JHR
August 26, 1996